

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| In re patent application of: |) | Before the Examiner: |
| |) | Lyle Alexander |
| William Crismore et al. |) | Group Art Unit 1743 |
| |) | Confirmation No. 1452 |
| Serial No. 10/693,305 |) | |
| |) | |
| Filed: October 24, 2003 |) | |
| |) | |
| ELECTROCHEMICAL |) | |
| BIOSENSOR TEST STRIP |) | December 24, 2008 |

STATUS REQUEST

Mail Stop AF
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant hereby requests information concerning the status of the above-identified patent application. An RCE was filed in this case on December 21, 2007, at which time a response to final action was also submitted. On August 26, 2008, a personal interview was conducted with Examiner Alexander concerning this and two related divisionals 10/409,721 and 10/692,031. An office action was received in 10/409,721 on October 16, 2008 indicating allowable subject matter. An office action was received in 10/692,031 on October 16, 2008, and a telephonic interview was conducted with Examiner Alexander to clarify issues raised in that office action. However, nothing has been received in the present application.

The only rejection of the prior-pending claims was based on the prior art device known as Glucometer Elite, marketed by Bayer Corporation. Each of the pending

independent claims provides for opaque or colored portions which are positioned adjacent opposite sides of the capillary channel such that only portions of the chamber are viewable in this area:

“opaque portions generally aligned with the opposed sides of the capillary channel from adjacent the sample application port to at least one of the electrodes” and “opaque portions defining a viewing area required to be filled to have a minimum sample amount for said test strip” Claim 104.

“opaque portions defining a fill area viewable through the viewing material, the fill area . . . limited to an area of the capillary channel needed to be filled to conduct an accurate test.” Claim 127.

“colored portions generally aligned with the opposed sides of the capillary channel” and “the viewing material and the colored portions defining a viewing area required to be filled to have a minimum sample amount for said test strip” Claim 131.

In contrast, there is nothing in the Glucometer Elite product which provides opaque and/or colored portions which define a viewing area that indicates an area of the capillary channel which needs to be filled to conduct a test. When blood is dosed to the Glucometer Elite strip, the user is able to see blood enter the strip, but is not able to tell if it is filling the capillary channel or some lesser portion of the interior of the strip.

These claim limitations clearly distinguish the present invention from the Glucometer Elite test strip, which fails to provide opaque and/or colored portions which define a viewing area or fill area that confirms sufficient filling of the test strip when that area has been filled with the blood sample.

The present invention is therefore seen to be uniquely distinguished from the above-described prior art. Reconsideration of the application and allowance of the pending claims are therefore respectfully requested.

Respectfully submitted,

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